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DIVISION OF INTERNATIONAL LAW

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THE HAGUE CONVENTION (II) OF 1907 RESPECTING THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS

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Preface

In view of the very great interest at the present time in the Conventions and signed Declarations of the First and Second Hague Conferences, and particularly because of the need of accurate information as to ratifications of and adhesions to the Conventions and Declarations relating to war, the Endowment has prepared a series of pamphlets in order that the public may learn from reliable sources the status of these international agreements and the extent to which the Powers now at war are bound by their provisions.

The first pamphlet of this series (No. 3 of the pamphlet series of the Division of International Law) contains the respective Tables of Signatures, Ratifications, Adhesions and Reservations of the Conventions and Declarations of the two Conferences. The compilation has been made from official sources, and the tables have been certified as accurate by the Department of State of the United States. In all cases the reservations contained in the *procès-verbaux*, but only referred to in the official tables issued by the International Bureau of the Permanent Court of Arbitration, have been translated and printed in full, with the references to the official reports where their texts appear. Without the complete text of a reservation it is impossible to know to what extent a Power is bound by a Convention or Declaration.

The Conventions and Declarations, as the case may be, of the two Conferences, are printed separately in the succeeding numbers of the pamphlets, accompanied by the respective lists of countries which have (a) *ratified*, or (b) *adhered to*, or (c) *signed but not ratified* them, with the date of the particular action taken. Each Convention or Declaration is followed also by the texts of reservations, as indicated above respecting the pamphlet containing the Tables of Signatures, Ratifications, etc. (No. 3). The English translations of the original French texts of the several Conventions, Declarations and Final Acts of the Conferences reproduce the official translations of the Department of State, except that a few obvious misprints, and an occasional mistranslation, have been corrected. Marginal notes have been added to facilitate reference.

Inasmuch as most of the Conventions and Declarations of the Conferences concerning war contain a clause to the effect that they only bind belligerents which have ratified them, and then only if all the belligerents are contracting Powers, there is appended a list of the countries now at war and the dates of the formal declarations or announcements of the existence of a state of war.

It should be noted that the Conventions and Declarations are not binding prior to the deposit of ratifications at The Hague. The mere signature of these conventional agreements may be regarded as the indication of an intention to ratify them, but creates no legal obligation. Adhesion has the effect of ratification. In this relation it is proper to remark that only the formal agreements of the Conferences—such as the Conventions and the signed Declarations—contemplate ratification. The informal agreements—such as the unsigned Declarations, Resolutions, Recommendations, and *Vœux*—are not signed separately. They are contained in the Final Act, which is an official summary of the proceedings of each Conference, and as such is signed.

A word should be said about the additional protocol to the Convention for an International Prize Court. It was not agreed upon at the Second Hague Conference, but was subsequently negotiated in order to remove objections to the Prize Court Convention. The signatures to it are indicated in the last column of the table of signatures of the Second Conference.

The Conventions and Declarations are numbered as in the Final Acts.

The official published proceedings of the First Conference are referred to in the footnotes as *Procès-verbaux*, those of the Second as *Actes et documents*. The full titles of the publications are respectively: (1) *Conférence internationale de la paix. La Haye, 18 mai–29 juillet, 1899. Ministère des affaires étrangères. Nouvelle édition. La Haye. Martinus Nijhoff, 1907*; (2) *Deuxième conférence internationale de la paix. La Haye, 15 juin–18 octobre, 1907. Actes et documents. Ministère des affaires étrangères. La Haye, imprimerie nationale, 1907.*

JAMES BROWN SCOTT,
Director of the Division of International Law.

WASHINGTON, D. C.,
December 23, 1914.

CONVENTION (II) RESPECTING THE LIMITATION OF THE EMPLOY-
MENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS

Signed at The Hague, October 18, 1907

His Majesty the German Emperor, King of Prussia; [etc.] :

Being desirous of avoiding between nations armed conflicts of a
pecuniary origin arising from contract debts which are claimed from
the Government of one country by the Government of another coun-
try as due to its nationals, have resolved to conclude a Convention to
this effect, and have appointed the following as their plenipotentiaries :

Purpose of
Convention.

[Here follow the names of the plenipotentiaries.]

Who, after depositing their full powers, found in good and due form,
have agreed upon the following provisions :

ARTICLE 1

The contracting Powers agree not to have recourse to armed force
for the recovery of contract debts claimed from the Government of
one country by the Government of another country as being due to its
nationals.

Armed force
not to be used
for recovering
contract debts.

This undertaking is, however, not applicable when the debtor State
refuses or neglects to reply to an offer of arbitration, or, after accept-
ing the offer, prevents any *compromis* from being agreed on, or, after
the arbitration, fails to submit to the award.

Exception.

ARTICLE 2

It is further agreed that the arbitration mentioned in paragraph 2
of the foregoing article shall be subject to the procedure laid down
in Part IV, Chapter III, of the Hague Convention for the pacific
settlement of international disputes. The award shall determine,
except where otherwise agreed between the parties, the validity of the
claim, the amount of the debt, and the time and mode of payment.

Arbitration
procedure.

Award.

ARTICLE 3

Ratification.

The present Convention shall be ratified as soon as possible.

Deposit at
The Hague.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

Certified copies
to Powers.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be sent immediately by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 4

Non-signatory
Powers
may adhere.
Notification
of intent.

Non-signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

Communication
to other
Powers.

The said Government shall forward immediately to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification, as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 5

Effect of
ratification.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE 6

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

Denunciation.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Notifying
Power
only affected.

ARTICLE 7

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 3, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 4, paragraph 2) or of denunciation (Article 6, paragraph 1) were received.

Register of
ratifications.

Each contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the plenipotentiaries have appended their signatures to the present Convention.

Signing.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent to the contracting Powers through the diplomatic channel.

Deposit of
original.

[Here follow signatures.]

RATIFICATIONS. ADHESIONS AND RESERVATIONS

The foregoing Convention was *ratified* by the following signatory Powers on the dates indicated:

| | |
|-----------------------|-------------------|
| Austria-Hungary | November 27, 1909 |
| Denmark | November 27, 1909 |
| France | October 7, 1910 |
| Germany | November 27, 1909 |
| Great Britain | November 27, 1909 |
| Guatemala | March 15, 1911 |
| Haiti | February 2, 1910 |
| Japan | December 13, 1911 |

| | |
|---------------------|--------------------|
| Mexico | November 27, 1909 |
| Netherlands | November 27, 1909 |
| Norway | September 19, 1910 |
| Panama | September 11, 1911 |
| Portugal | April 13, 1911 |
| Russia | November 27, 1909 |
| Salvador | November 27, 1909 |
| Spain | March 18, 1913 |
| United States | November 27, 1909 |

Adhesions:

| | |
|-----------------|-------------------|
| China | January 15, 1910 |
| Liberia | February 4, 1914 |
| Nicaragua | December 16, 1909 |

The following Powers signed the Convention but have not yet ratified:

| | |
|--------------------|------------|
| Argentine Republic | Italy |
| Bolivia | Montenegro |
| Bulgaria | Paraguay |
| Chile | Persia |
| Colombia | Peru |
| Cuba | Servia |
| Dominican Republic | Turkey |
| Ecuador | Uruguay |
| Greece | |

*Reservations:*¹

Argentine Republic

The Argentine Republic makes the following reservations:

1. With regard to debts arising from ordinary contracts between the citizen or subject of a nation and a foreign Government, recourse shall not be had to arbitration except in the specific case of denial of justice by the courts of the country which made the contract, the remedies before which courts must first have been exhausted.

2. Public loans, secured by bond issues and constituting the national debt, shall in no case give rise to military aggression or the material occupation of the soil of American nations.

¹All these reservations, except those of Nicaragua and the United States, were made at signature.

Bolivia

Under the reservation stated to the First Commission.

Extract from the procès-verbal:

It seems to me, therefore, that the acceptance of the proposition before us will but mean the legitimization by the *Peace Conference* of a certain class of *wars*, or at least interventions based on disputes which relate neither to the honor nor vital interests of the creditor States.

In consequence of these forceful reasons, the delegation of Bolivia regrets not to give its entire assent to the proposition under discussion.¹

Colombia

Colombia makes the following reservations:

It does not agree to the employment of force in any case for the recovery of debts, whatever be their nature. It accepts arbitration only after a final decision has been rendered by the courts of the debtor nations.

Dominican Republic

With the reservation made at the plenary session of October 16, 1907.

Extract from the procès-verbal:

The delegation of the Dominican Republic confirms its favorable vote on the proposal of the delegation of the United States relative to the limitation of the employment of force for the recovery of contract debts; but it renews its reservation as to the condition contained in this part of the clause: "or after accepting the offer, prevents any *compromis* from being agreed on," as its interpretation might lead to excessive consequences which would be the more regrettable as they are provided for and avoided in the plan of Article 53 of the new Convention for the pacific settlement of international disputes.²

Ecuador

With the reservations made at the plenary session of October 16, 1907.

Extract from the procès-verbal:

The delegation of Ecuador will vote affirmatively while maintaining the reservations made in the First Commission.³

¹Statement of Mr. Claudio Pinilla. *Actes et documents*, vol. ii, p. 142.

²Statement of Mr. Apolinar Tejera. *Actes et documents*, vol. i, p. 337.

³Statement of Mr. Dorn y de Alsúa. *Actes et documents*, vol. i, p. 338.

Greece

With the reservation made at the plenary session of October 16, 1907.

Extract from the procès-verbal:

In the eighth meeting of the First Commission the Greek delegation, being without definite instructions, was obliged to reserve its vote on the subject of the proposition of the United States of America on the treatment of contract debts. We are to-day in a position to declare that the Royal Government accepts the said proposition, which has for its aim the doing away, by peaceful means, of differences between nations and the exclusion, conformably to the principles of international law, of the employment of armed force outside of armed conflicts. We consider, at the same time, that the provisions contained in paragraphs 2 and 3 of the text voted can not affect existing stipulations nor laws in force in the realm.¹

Guatemala

1. With regard to debts arising from ordinary contracts between the citizens or subjects of a nation and a foreign government, recourse shall be had to arbitration only in case of denial of justice by the courts of the country which made the contract, the remedies before which courts must first have been exhausted.²
2. Public loans secured by bond issues and constituting national debts shall in no case give rise to military aggression or the material occupation of the soil of American nations.²

Nicaragua

The act of adhesion contains the following reservations:

(a) With regard to debts arising from ordinary contracts between the citizen or subject of a nation and a foreign Government, recourse shall be had to arbitration only in the specific case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.

(b) Public loans secured by bond issues and constituting the national debt shall in no case give rise to military aggression or the material occupation of the soil of American nations.

¹Statement of Mr. Rangabé. *Actes et documents*, vol. i, p. 336.

²Reservation maintained at ratification.

Peru

Under the reservation that the principles laid down in this Convention shall not be applicable to claims or differences arising from contracts concluded by a country with foreign subjects when it has been expressly stipulated in these contracts that the claims or differences must be submitted to the judges or courts of the country.

Salvador

We make the same reservations as the Argentine Republic above.¹

United States

The act of ratification contains the following reservation:

That the United States approves this Convention with the understanding that recourse to the Permanent Court for the settlement of the differences referred to in said Convention can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute.

Uruguay

Under reservation of the first paragraph of Article 1, because the delegation considers that arbitration may always be refused as a matter of right if the fundamental law of the debtor nation, prior to the contract which has given rise to the doubts or disputes, or this contract itself, has stipulated that such doubts or disputes shall be settled by the courts of the said nation.

¹*Ante*, p. 4. Reservation maintained at ratification.

